

DANA FRIX
ATTORNEY-AT-LAW

SWIDLER
&
BERLIN
CHARTERED

ORIGINAL

DIRECT DIAL
(202)424-7662

August 14, 1997

VIA HAND DELIVERY

DOCKET FILE COPY ORIGINAL

RECEIVED

AUG 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: MCI Telecommunications Corporation Petition for Rulemaking -- Billing and Collection Services Provided By Local Exchange Carriers for Non-Subscribed Interexchange Services, RM 9108

Dear Mr. Caton:

Pursuant to the Commission's June 25, 1997 Public Notice in the above-referenced matter, enclosed for filing are an original and four (4) copies of the Reply Comments of Telco Communications Group, Inc.

Please date-stamp the enclosed extra copy of these Comments and return it to the undersigned via our messenger. If you should have any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,



Dana Frix

Counsel for Telco Communications Group, Inc.

Enclosures

cc: Bryan Rachlin
Richard Gazala
International Transcription Service
Darius B. Withers, Common Carrier Bureau (w/diskette)

No. of Copies rec'd
List ABCDE

024

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

AUG 14 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
MCI Telecommunications Corporation) RM 9108
)
Billing and Collection Services Provided)
By Local Exchange Carriers for Non-Subscribed)
Interexchange Services)
_____)

REPLY COMMENTS OF
TELCO COMMUNICATIONS GROUP, INC.

Telco Communications Group, Inc. ("Telco"), by undersigned counsel, hereby submits its Reply Comments in support of the Petition for Rulemaking ("Petition") filed by MCI Telecommunications Corporation ("MCI") on May 19, 1997 in the above-referenced proceeding. The comments filed in *opposition* to MCI's Petition are unpersuasive and without merit, therefore, Telco requests that the Commission grant MCI's Petition for Rulemaking.

I. THE NEW TELECOMMUNICATIONS MARKET REQUIRES THE COMMISSION TO REVISIT ITS REGULATORY TREATMENT OF BILLING AND COLLECTION BY LECs

By their opposing comments, several incumbent local exchange carriers ("LECs") argue that this Commission has already addressed the issues affecting billing and collection service and that the Commission concluded that billing and collection service is not a common carrier service and, therefore, is not regulated under Title II of the Communications Act.¹ The resolution referenced by

¹ See e.g., Ameritech Opposition, at 2; Bell Atlantic and NYNEX Comments, at 3; Bell South Corporation ("Bell South") Comments, at 2; and Cincinnati Bell Telephone ("CBT"),

the incumbent carriers regarding billing and collection service was decided by the Commission in 1986 and 1993 and is no longer sound.²

On February 8, 1996, the Telecommunications Act of 1996 ("1996 Act") changed the entire telecommunications industry, invalidating and rendering obsolete numerous rules, regulations, practices and procedures in existence throughout the industry. By contrast, even Ameritech agrees that the Commission reached its conclusion on billing and collection service "long ago."³ When the Commission last thoroughly examined the provision of billing and collection service to interexchange carriers ("IXCs"), Regional Bell Operating Companies ("RBOCs") were prohibited from entering the interexchange market. The line between the local market and the interexchange market was clearly drawn with repercussions in place for attempts to cross that line. This line enabled competition in the interexchange market to grow and ensured that all IXCs would receive nondiscriminatory treatment from LECs. Specifically, LECs had no strong incentive to discriminate among IXCs since LECs were not in competition for provisioning IXC service.⁴ The 1996 Act

at 1-2 (all filed July 25, 1997).

² *Billing and Collection Services*, Report and Order, CC Dkt. No. 85-88, FCC 86-31 (January 29, 1986) ("Detariffing Order"); *Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, Second Report and Order, CC Dkt. No. 91-115, FCC 93-254 (June 9, 1993).

³ Ameritech Opposition, at 2.

⁴ Ameritech argues that the Commission's previous decision was made at a time when the LEC provision of services were more critical to the development of competition in the interexchange market. Ameritech Opposition, at 2. This argument fails since the LECs at that time had no incentive to discriminate in a market they were prohibited from serving.

erased this competitive line -- or, at least, mandated that the line be erased opening all telecommunications markets to competition for all carriers.

Today, most RBOCs have plans to enter the interexchange market. Therefore, an obvious incentive exists for the RBOCs to minimize the competition in that market in anticipation of gaining tremendous interexchange market share. It is hardly coincidental that as the RBOCs are planning their entry into the interexchange market they are also threatening to increase pricing and terminate billing and collection agreements with IXC's. The ability to increase pricing or cancel the billing and collection agreements altogether places the RBOCs in an extremely advantageous position over potential competitors in the interexchange market. First, such an action places an enormous financial burden on IXC's, as discussed below. Second, knowing that consumers, especially residential consumers, highly value the convenience of a single bill, RBOCs will dominate the market by positioning themselves as the only carrier capable of offering such a familiar commodity. The IXC's will not be in a position to offer single billing for some time, thereby leaving this niche to RBOCs. Third, the RBOCs action would clearly threaten most IXC's' provision of services, especially non-presubscribed services. Numerous IXC's would financially be precluded from offering certain services if billing and collecting for services rendered were made difficult, if not impossible, by the RBOCs.⁵

⁵ The unique billing situation of non-presubscribed services is discussed at length in Telco's Comments filed on July 22, 1997. As explained in its Comments, many non-presubscribed calls will not be billable without the billing and collection service provided by LECs. Subsidiaries of Telco derive more than 90% of their revenues from non-presubscribed service offerings and, therefore, the LEC's actions would be detrimental to their competitive business.

The Commission must revisit billing and collection service under the new regime of the 1996 Act. Even Ameritech acknowledged that the "dependence on non-subscribed services on LEC-provided billing and collection" presents a new issue.⁶ Based upon market place changes occasioned by the 1996 Act, and specifically the imminent entry of local exchange carriers into long distance markets, it is essential to require nondiscriminatory access to LEC provided billing and collection service.

II. TERMINATION OR UNAVAILABILITY OF BILLING AND COLLECTION ARRANGEMENTS WITH LECs WOULD CRIPPLE COMPETITION IN THE IXC MARKET

A. No Reasonable Alternative Billing and Collection System Currently Exists

The LECs' assertions that IXCs have alternative billing and collection options is untenable.⁷ Currently, the only providers of billing and collection services that can offer of a single bill to consumers are LECs -- no other choice is currently available to IXCs. Some very large IXCs with immense customer bases have tried direct billing in some areas, but still have not been able to bill and collect for non-presubscribed calls. Telco notes that many carriers choose to offer non-presubscribed services and that such services are profitable. These services are profitable because the public desires them and utilizes them. It would be contrary to the public interest to remove such service offerings because LECs decided to terminate, or bastardize, billing and collection agreements. Due to their historic bottleneck control over essential billing and collection functions

⁶ Ameritech Opposition, at 2.

⁷ Ameritech Opposition, at 3; Bell South Comments, at 2; CBT Comments, at 4; SNET Comments, at 4; US West, Inc. Comments, at 12 (filed July 25, 1997).

and information, LECs maintain control over the billing and collection of funds from end user customers. To date, no reason has existed for the IXC's to switch to an alternative billing and collection method.

Furthermore, the IXC's, since entering the long distance market, have relied on LEC billing and collection service. This service was made available to IXC's pursuant to contract upon entering the long distance market. Until now, no indication was given that IXC's needed to start creating or even considering alternative means for billing customers. The cooperation among LECs and IXC's in providing a single bill to the end user has always benefited and continues to benefit all parties. The LECs receive compensation for their service, the IXC's avoid a cost prohibitive obstacle to entering the long distance market, and, most importantly, the public receives one convenient bill. These and other reasons demonstrate that IXC's have justifiably relied on LEC billing and collection service. The imminent entry of LECs into the interexchange market, coupled with the LECs termination of billing and collection service to IXC's, would cripple the IXC's ability to continue providing service, and burden IXC's with an instant, enormous expense.

B. Implementing Individual Billing and Collection Systems is Not Practical and is and Expensive Undertaking

Many incumbent carriers attack MCI's argument that it is not practical nor feasible to undertake the expensive project of implementing individual billing and collection systems.⁸ The incumbent carriers argue that MCI is a profitable carrier which touts in its Petition the profitability

⁸ See e.g., US West Comments, at 8.

of non-subscribed services in the interexchange industry.⁹ This argument is unpersuasive since numerous carriers currently providing long distance service are *not* the size of MCI, nor do they reap the profits of MCI. As evidenced by their comments, many other IXC's have equal, if not greater, concern than MCI regarding the viability of billing and collection service provided by LECs. Lack of a billing and collection agreement with a LEC would materially diminish, if not destroy, a carrier's ability to remain in business. Furthermore, development and implementation of an alternative billing and collection method would take immense planning and time -- if billing and collection service agreements are terminated, many carriers will be facing months of non-billable and non-collectible charges. In fact, it is likely that some smaller carriers may simply never reach the economies of scale to bill and collect directly from end users at all.

Telco urges the Commission to address this issue and mandate a timely transition schedule to enable IXC's to plan for the potential withdrawal of LEC-provided billing and collection service. The Commission must ensure that LEC billing and collection will continue to be available on a nondiscriminatory basis until clearinghouses or other alternatives are developed to prevent the collapse of non-presubscribed interexchange services.

III. LECs MUST NOT BE PERMITTED TO UNILATERALLY IMPOSE INFLATED PRICES OR BURDENSOME STANDARDS ON IXC's VIA BILLING AND COLLECTION AGREEMENTS

Some commenting LECs displayed intentions to impose further burdens on IXC's in the provision of billing and collection service. For example, some LECs expressed an intention to

⁹ US West Comments, at 8.

unilaterally raise prices for billing and collection.¹⁰ CBT argues in its comments (at 3) that it should be permitted to “take steps to ensure that the parties with whom it has billing and collection agreement adhere to strict standards of customer service . . .” CBT further claims that its reputation has been damaged by the inaccurate submission by IXC’s of billing information. *Id.* CBT’s suggestion of imposing “strict standards of customer service” on an IXC is a representation of the “take it or leave it” stance that incumbent carriers have taken in negotiating billing and collection agreements. While Telco fully agrees (and operates under the assumption) that the quality of customer service is a matter of the utmost importance, Telco does not desire to be subject to customer service standards unilaterally dictated by a competitor or a LEC. Instead, state and federal regulators must be responsible for regulating billing and collection and customer service standards. Furthermore, as demonstrated by the comments filed by IXC’s in this proceeding, many IXC’s have no choice but to accept the onerous terms and conditions offered by the LECs. Such a leveraged position is unacceptable in light of the LECs’ obvious incentives to impose unfair standards as they prepare to enter the interexchange market in the near future. CBT’s suggestion seriously alarms Telco, and highlights the need for a Commission Rulemaking on billing and collection issues.

IV. CONCLUSION

In light of the extraordinary changes to the telecommunications industry over the past year and half, the Commission must reexamine the billing and collection service offerings of LECs. This industry -- long monopolized by LECs -- is of vital importance to all IXC’s, especially those

¹⁰ SNET Comments, at 8-10; US West Comments, at 4.

providing non-presubscribed services. LEC entry into the interexchange markets fundamentally changes LEC economic incentives in billing and collection service offerings to IXC's. LECs now have immense leverage to position the interexchange market to their advantage. The LECs' termination or conditioning of the provision of billing and collection service to IXC's upon onerous terms threatens the very existence of competition in the interexchange market. Clearly, the 1996 Act did not intend to harm the existing competitive interexchange market. In order to ensure competition in all telecommunications markets, billing and collection service must be provided under the discipline of reasonable nondiscrimination rules.

Respectfully submitted,



Dana Frix
Kathleen L. Greenan
Swidler & Berlin, Chtd.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

Counsel for Telco Communications
Group, Inc.

Bryan Rachlin
Richard Gazala
Telco Communications Group, Inc.
4219 Lafayette Center Drive
Chantilly, Virginia 20151
(703) 631-5600 (Tel)
(703) 631-5688 (Fax)

Dated: August 14, 1997

CERTIFICATE OF SERVICE

I, Kathleen L. Greenan, hereby certify that a copy of the foregoing "Reply Comments of Telco Communications Group, Inc." were served via U.S. Mail on this 14th day of August, 1997, on each of the persons on the attached service list.


Kathleen L. Greenan

Jack B. Harrison
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Thomas E. Taylor
Cincinnati Bell Telephone Company
201 East Fourth Street, 6th Floor
Cincinnati, Ohio 45202

M. Robert Sutherland
Richard M. Sbaratta
BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, Georgia 30309

Michael S. Pabian
Ameritech
Room 4H82
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

James G. Pachulski
Bell Atlantic
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

William J. Balcerski
NYNEX
1095 Avenue of the Americas
New York, NY 10036

Kathryn Marie Krause
U S West, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Wendy Bluemling
The Southern New England Telephone Company
227 Church Street
New Haven, CT 06510-1806

Raul R. Rodriguez
Walter P. Jacob
Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006

Catherine R. Sloan
Richard S. Whitt
WorldCom, Inc.
1120 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

Douglas F. Brent
9300 Shelbyville Road
Suite 700
Louisville, KY 40222

Walter Steimel, Jr.
Marjorie K. Conner
Ronnie London
Hunton & Williams
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006

Rachel J. Rothstein
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Edwin N. Lavergne
Jay S. Newman
Ginsburg, Feldman and Bress, Chartered
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Michael G. Hoffman
Legal and Regulatory Affairs
VarTec Telecom, Inc.
3200 West Pleasant Run Road
Lancaster, TX 75146

David L. Jones
CommuniGroup of KC, Inc.
6950 West 56th Street
Mission, KS 66202

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W.
Suite 701
Washington, D.C. 20006

Leon M. Kestenbaum
Michael B. Fingerhut
1850 M Street, N.W.
11th Floor
Washington, D.C. 20036

Michael J. Shortley, III
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646

James H. Bolin, Jr.
Mark C. Rosenblum
Ava B. Kleinman
AT&T Corporation
Room 3247H3
295 North Maple Avenue
Basking Ridge, NJ 07920

Robert J. Aamoth
Joan M. Griffin
Kelley Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Robert M. Lynch
Durward D. Dupre
Michael J. Zpevak
Robert J. Gryzmala
SBC Communications, Inc.
One Bell Center, Room 3520
St. Louis, MO 63101

Antony R. Petrilla
Swidler & Berlin, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

C. Joel VanOver
Ronald J. Jarvis
Swidler & Berlin, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007